

September 16, 2015



Talbot County Planning Commission
Final Decision Summary

Wednesday, July 1, 2015 at 9:00 a.m.

Bradley Meeting Room

11 N. Washington Street, Easton, Maryland

Attendance:

Commission Members:

Thomas Hughes, Chairman
John N. Fischer, Jr., Vice Chairman
William Boicourt
Michael Sullivan
Paul Spies

Staff:

Mary Kay Verdery, Planning Officer
Jeremy Rothwell, Planner I
Martin Sokolich, Long Range Planner
Mike Pullen, County Attorney
Carole Sellman, Recording Secretary

1. Call to Order—Commissioner Hughes called the meeting to order at 9:01 a.m.

2. Decision Summary Review—June 3, 2015—The Commission noted the following corrections to the draft decision summary:

- a. Line 277, last word should be “equally”.
- b. Line 357, Change the second sentence to read as follows: “He believes the current standards for noise would be ample.”
- c. Line 362, amend to read: “Commissioner Hughes stated under normal circumstances he would agree but because of the acrimonious history of the motor cross track it might be helpful for Easton Utilities to be proactive on this point. If Easton Utilities can show this is an appropriate use and they have gone to the nth degree to limit noise, then that should limit complaints.”
- d. Line 374, add: The motion carried unanimously.
- e. Line 496, amend to read: “The general concerns by the Commission were that impound yards and towing facilities operating 24 hours a day is not consistent with other cottage industry uses.”

Commissioner Fischer moved to approve the Decision Summary for June 3, 2015, as amended; Commissioner Spies seconded the motion. The motion carried unanimously.

3. Old Business

- a. Text Amendment for Planned Redevelopment District (PRD) Overlay

Commissioner Hughes asked that the unsolicited emails which he has received in his private email be entered into the record. He received emails from Donna

Cantor, Tod Engelskirchen, Irvine Hetherington, Tcelia Klosowicz, John Booth and Connie Lauffer.

Ms. Verdery explained that the purpose of the Planned Redevelopment District (“PRD”) is to provide public and community benefits and flexibility for appropriate redevelopment that meets specific standards and requirements of this Section. The PRD is intended to include enhanced site design and layout, to improve public and private infrastructure and amenities, to manage redevelopment through adaptive re-use, demolition, reconstruction and infill, which may include compatible new uses. For legal nonconforming structures and uses, the PRD includes redesign, improvement, expansion, demolition, relocation, or replacement in accordance with the requirements of this Section.

The requirements include ownership, jointly and severally, for the PRD and redevelopment plan. A minimum lot size of five acres. The PRD can be applied to any base zoning and also has a requirement for a redevelopment plan. Within this plan the uses that are proposed must be clearly defined, the bulk requirements, density, architectural requirements, parking, landscaping, signs, transportation facilities, and water and sewer facilities need to be adequately addressed within the plan. A proposed Planned Redevelopment District and Redevelopment Plan may be approved only if the County Council finds that: (1) They are consistent with the Talbot County Comprehensive Plan; (2) They will promote the general welfare of the public; (3) The size and location of the PRD are appropriate to the surrounding neighborhood; (4) The improvements and reuse or new uses in the Redevelopment Plan are appropriate to the surrounding neighborhood; (5) The proposed building designs, uses, intensity, scale, bulk, and location of structures and uses are appropriate to the surrounding neighborhood and compatible with community design standards; (6) They include all or some combination of the following redevelopment tools to substantially improve existing development in the proposed PRD: enhanced site design and layout, improved public and private infrastructure and amenities, which may include compatible new uses; adaptive reuse, infill, demolition, reconstruction, expansion, relocation, or replacement of legal nonconforming structure and/or legal nonconforming uses in accordance with the requirements of this Section; (7) They preserve appropriate existing development, manage development, and allow for limited new development consistent with the standards and requirements of this Section; (8) The PRD and Redevelopment Plan will promote, and will not interfere with, the adequate and orderly provision of public facilities; (9) All requirements of this Section have been met.

Ms. Verdery provided a flow chart which showed the process to get to the final stages of approval. A minimum process includes a pre-application meeting, followed by a request to County Council for sponsorship. If there is no County Council sponsorship the Bill will not go forward. If it is sponsored it will go forward with a concept application to the Technical Advisory Committee (TAC) and the Critical Area Staff will also review. From TAC there is a community

meeting at the option of the Planning Director and then Council work session at the option of the County Council, both of these are open for the public to attend. The applicant would then revise and supplement their application as advised during these meetings. Then the Planning Director would determine if the application is complete. If the application is not complete it is returned and the applicant and they must supply the items necessary to complete the application. If the application is complete the Planning Director issues the Notice to Proceed to the Planning Commission for review. The Planning Commission would then hold their public hearing and make a recommendation to the County Council on the Planned Redevelopment Overlay District and the Redevelopment Plan. The Planning Director would forward that recommendation to the County Council within sixty days of the Notice to Proceed that was provided to the applicant. The Council would make a decision to introduce the legislation, if no County Council member wants to introduce the legislation, the application is denied and does not move forward from that point. If the legislation is introduced by the Council they will schedule a public hearing and a public hearing will be conducted for the public comments at the County Council. The County Council will then vote after public hearing and if the vote is no majority, the application will not move forward. If the project receives a majority yes the legislation becomes effective within sixty days or upon Critical Area Commission approval, if required. It must meet the standards that are defined in Section 190-112.1. Once they have received the final County Council approval they must go through Site Plan review.

The site plan is submitted for Pre-Application meeting, if required. The site plan is submitted to the Planning Officer in compliance with the approved PRD and Redevelopment Plan and follow the site plan process as currently defined under our Code in Section 190-184. A major site plan is approved by the Planning Commission, a minor site plan is approved by the Planning Officer. The next step is back to TAC for site plan review. After TAC reviews have been completed the site plan goes to Compliance Review Meeting for final review to make sure all conditions of approval are complied with. Once it receives site plan approval it moves forward to the building permit stage.

There are some definitions which are defined in this legislation. **Redevelopment Plan**—a type of plan that becomes part of the zoning of a property in a Planned Redevelopment District. The plan depicts site characteristics and redevelopment information to and include the location of buildings, uses, roads, easements, parking, landscape, access, and provides guidance for site plans. **Planned Redevelopment District** or “PRD”—a floating zone that may be applied to improved lots to provide flexibility for appropriate redevelopment projects. The PRD includes enhanced site design and layout, improved public and private infrastructure and amenities, and may include compatible new uses to manage redevelopment through adaptive re-use, demolition, reconstruction and infill, and, for legal nonconforming structure and uses, it provides for redesign, improvement, expansion, demolition, relocation, or replacement. **Redevelopment (CA)**—The process of developing land which is or has been developed. For

146 purposes of a PRD, “redevelopment” means any or all of the following:
147 rebuilding, redesigning or adding to existing improvements and infrastructure, or
148 approval of appropriate new improvements or adaptive reuses associate with
149 existing development.

150
151 Commissioner Boicourt asked about the gray area of the flow chart, if the
152 Planning Commission disapproves would that be the end of the project. Ms.
153 Verdery stated that in the gray area the Planning Commission would be
154 determining if the Site Plan is in compliance with the approved PRD.
155 Commissioner Boicourt asked if they would be determining if the project was
156 consistent with the Comprehensive Plan? Ms. Verdery stated that process is
157 already determined for the redevelopment plan and Planning Commission made
158 that recommendation to Council in the blue area of the flow chart.

159
160 Commissioner Hughes stated in the flow chart, if the Planning Commission
161 makes a recommendation the PRD does not make any sense to them wouldn’t that
162 be indicative to them the Commission is not likely to approve the Site Plan, so
163 this would be a complete waste of time. Ms. Verdery stated the recommendation
164 would be made to the County Council. The County Council makes the final
165 decision, and if it ultimately decides the proposed PRD is in compliance with the
166 Comprehensive Plan, it is consistent with the surrounding neighborhood, and
167 meets all the standards in the legislation, then we have to accept the decision
168 made by the County Council. Then the site plan would be required to be in
169 compliance with the approved redevelopment plan.

170
171 Commissioner Hughes wanted to make the public aware of Mr. Armistead
172 coming before the Planning Commission in June with the Harbourtowne/
173 Martingham property as a discussion item. This property consists of two
174 properties, one is about twelve acres, which is zoned Rural Residential and
175 contains most of the buildings. The other is about 130 acres and is zoned Rural
176 Conservation and is mostly the golf course. His client is stymied by our zoning
177 ordinance which will not currently permit him to build a hotel and do certain other
178 improvements to that property. We have presented with the current Planned
179 Redevelopment Overlay legislation as a way to remedy his client’s dilemma.
180 Commissioner Hughes asked if that was a fair recitation of where we are? Ms.
181 Verdery stated that is one possible application of this legislation. She stated what
182 precipitated this was the County Council originally being presented with the
183 option of a Planned Unit Development (PUD) concept that evolved into this
184 concept.

185
186 Commissioner Spies questioned in the definition section under development, what
187 is the official definition of development. Mr. Pullen stated that development
188 activities are defined:

189
190 Any activity that:
191

- 192 A. Is shown on a subdivision plat, revised plat, site plan, building/zoning
193 permit or forest preservation plan; and/or
194 B. Results in the construction or substantial alteration of any residential,
195 commercial, industrial, institutional, recreational (including golf
196 courses), or transportation facilities or structures.
197

198 Commissioner Hughes asked what constitutes an improved lot, if there is an old
199 barn in the back of the woods is that an improved lot? Mr. Pullen stated the
200 answer is yes. The question that begs is what would be the appropriate redevelop
201 of that old barn. It become a question of balance and degree. It might be an
202 appropriate sight to redevelop that barn into a shop or maybe a museum or even a
203 house that would be consistent with the character of the existing neighborhood.
204 That barn would qualify as an improvement and make it eligible for someone to
205 come forward with a project to redevelop that sight. There is no guaranteeing of
206 any improvement here. There is a fair amount of input by the public to the
207 Planning Commission as well as the County Council. The purpose of this Bill is
208 to create some flexibility for redevelopment where none currently exists.
209

210 Commissioner Fischer stated that the Bill appears to allow just three members of
211 the County Council to redevelop a barn into something similar to a Holiday Inn.
212 Mr. Pullen states this creates a path that currently does not exist, that may or may
213 not be bad policy. Commissioner Fischer stated that the Bill circumvents the
214 normal process of complying with zoning setbacks, heights, density, landscape
215 plans and parking plans. Mr. Pullen stated he would not characterize the
216 ordinance that way, this approach is a fairly standard tool. Commissioner Fischer
217 stated that small towns avoid PRDs and PUDs for a reason, unintended
218 consequences always result. Mr. Rothwell stated the County Council still has to
219 find that it meets the standard and intent of the Comprehensive Plan, so a Holiday
220 Inn in the middle of a cornfield does not by any stretch of the imagination meet
221 the 2005 Comprehensive Plan.
222

223 Commissioner Hughes stated there were a lot of discussions during the 2005 plan
224 that vagueness in the Zoning Ordinance and the Comprehensive Plan. During that
225 process they sought to cure a lot of the vagueness in the 1997 Plan. In this Bill
226 while it provides flexibility it also reintroduces subjectivity and has a lack of fixed
227 standards. We have a situation where we would be relying on the judgment of
228 three people on the Council and three people on the Planning Commission as to
229 whether or not replacing a barn with a Holiday Inn anywhere in the County would
230 be appropriate.
231

232 Commissioner Fischer stated that the Commission was introduced to the
233 Harbourtowne plan and he was positively disposed to it. In concept it is a good
234 plan for St. Michaels and the County. He understands changes have to be made
235 for the project to move forward. With the Bill that is proposed today, Bill 1305
236 encompasses not only the Harbourtowne property, not only nonconforming
237 properties in the critical area, but opens to redevelopment the entire County, every

single property in this County with an improved lot. I don't think this is consistent with what we expected and with policies on the Councils for the last 65 years have tried to institute in this County. If passed Bill 1305 allows three members of the County Council to override zoning laws, size, height, density, and setback restrictions, architectural and parking guidelines, landscaping and signage requirements, and approve redevelopment of any improved property anywhere in the County and do anything. In effect the Bill will eliminate safeguards that have been essential in thoughtful land management decisions enacted by County Councils over the past seven decades, measures that have served to maintain and preserve the exceptional County that is Talbot. The thrust of the Bill is contrary to fundamental tenants of the Comprehensive Plan set in place by over one hundred County citizens who participated in writing the current plan in 2004 and 2005 and over forty citizens who participated in review and update of that plan in 2014-15. Those citizens made clear in multiple sections throughout the plan their desire to preserve the rural character of our County and the quality of life associated with that natural setting. Bill 1305 threatens those values. Bill 1305 is of enormous import. If enacted the consequences would fundamentally and irreversibly change the nature of Talbot County. Therefore I suggest we respectfully urge the County Council to: (1) remove this Bill from its current fast track to give citizens fair time to consider the Bill and to meet together and with the County Council in order to understand and comment on its broad implications; and (2) to reject the Bill and suggest to seek other less open-ended mechanisms to remedy obstacles to the worthwhile development of Harbourtowne and other similar projects.

Commissioner Fischer said the term "improved lot" used here is not a very clearly defined term and has meant very different things to many people. We were taking it to mean a very small shed or building. It has been taken to mean a mowed field to open up the entire county to development. The redefinition of what an improved lot can mean highlights the dangers that bill as drafted presented to this County.

Commissioner Hughes asked for public comment.

Tom Alspach, on behalf of the Talbot Preservation Alliance. He stated like many he is fully in favor of the redevelopment of Harbourtowne. This legislation goes far, far beyond what is necessary to redevelop Harbourtowne, or other similar properties in other parts of the County. What it actually does is to legalize spot zoning everywhere in Talbot County. There are very basic rules that prevent governments from doing piecemeal rezoning at the whim of three elected officials. Rules that have been in place for a long time, and are in place in this County. In Talbot County the rules have been in place since 2000 when the Preservation Alliance filed a law suit that required Talbot County to recognize the change or mistake rule for rezoning. The reason this legislation is being recommended to you and the reason they want to extend it to every parcel in the County is to get around and to eliminate the fundamental change or mistake rule that applies to all piecemeal rezoning. Under that rule an applicant must show, to

284 rezone a parcel, there has been a change in character of the neighborhood or there
285 was a mistake in the original zoning. That does not get you the rezoning, but that
286 is the basic threshold you have to get over. This Bill eliminates that, you no
287 longer need to meet that high bar. Our zoning laws protect you from your next
288 door neighbor deciding to change his or her house into a cosmetics parlor or some
289 other commercial use. That would no longer apply. Now we have what's known
290 as a redevelopment plan. Redevelopment is not a definition it is a characterization
291 of what redevelopment might be, it is not a standard. The standard is whatever
292 three County Council members say it might be. The standard is found in the
293 particulars of the redevelopment plan that allow the County Council to decide
294 what the new use might be, what its density might be, what its height might be,
295 what its setback requirements might be, what its architecture signage and
296 landscaping might look like, all those things we now have standards for in our
297 underlying zoning ordinance. But they now go out the window and the County
298 Council instead decides in each instance what might apply. So the Best Western
299 Motel in St. Michaels could be developed into a Marriot, Carroll's Market on
300 Route 33 could be developed into a strip mall or commercial center. These things
301 still are possible under our zoning codes but they would have to go through this
302 process requiring showing compliance with the state and compliance with the
303 zoning ordinance. These so called standards in this ordinance now are the specific
304 quantifying measurements that now exist in the zoning ordinance. This is not
305 really an overlay zone. If you want to see an overlay zone look at Section 190-
306 106. Look at the specific standards for all these things included in a legitimate
307 overlay zone. This is an open ended invitation for the County Council to decide
308 how every parcel in this County might be zoned and it goes much further than it
309 has to in order to accommodate Harbourtowne.

310
311 Phil Jones, 9005 N St. Michaels Road, he questions if staff has a map showing
312 how many parcels or lots over 5 acres exist along Route 33, lots along Long Haul
313 Creek. Is this just another way we will have sprawl? He is fully supportive of
314 Harbourtowne but he does not want to sprawl out of all that is good of Talbot
315 County.

316
317 Warren Martin Chairman of Bay Hundred for the last twelve was charged with
318 opposing the Miles Point Project endorsed what Commissioner Fischer and Mr.
319 Alspach had said.

320
321 Robert Andur, Bozman, endorsed what Mr. Fischer has said and what Mr.
322 Alspach explained in more detail. There is a lot of history here and it would be
323 unwise to proceed without analyzing very carefully the work that had been done
324 to prepare Comprehensive Plans in the past and the ongoing review of the
325 Comprehensive Plan today.

326
327 Dan Watson, Aveley, retired real estate developer from the western shore. The
328 way this legislation operates fundamental decisions are driven by the votes of
329 three individuals. It invites long term favoritism and corruption. He urges

330 consideration of the non-land use planning aspect of this very, very bad
331 legislation.

332
333 Jay Corvan, local architect, Trappe, this legislation is an indication of how
334 dangerous opening a Planned Redevelopment District is. It wipes the whole slate
335 clean, leaves too much subjectivity, use this as an opportunity to examine the
336 zoning ordinance. There is a new thing called a form based zone which the City of
337 Cambridge mapped last year. It lays out the expectation for Planned
338 Redevelopment District which could actually be used for your benefit. The beauty
339 is it provides for the expectation of the developer with a reasonable sense of
340 approval instead of not knowing if you are going to get septic or not. This is a
341 new form of zoning which has been around for 25-30 years and he suggests the
342 County look at it.

343
344 Alexa Seip, 7961 Bloomfield Road, stated she strongly supports all that Mr.
345 Fischer has said pointing out the flaws of the ordinance as written and also the
346 positive benefits of the Martingham project as conceived. Hopefully this
347 ordinance can be rewritten in such a way that allows for that particular
348 redevelopment and still protects the rest of the County.

349
350 Commissioner Hughes wanted to specifically mention the purpose of the zoning
351 code. In Section 190-3 under the purpose it states: "Implement zoning and
352 subdivision controls that govern land use, growth, and development in accordance
353 with the duly adopted County Comprehensive Plan and Critical Area Plan."
354 Mr. Hughes read one policy from the 2005 Comprehensive Plan which pre-dates
355 the 2005 Plan, perhaps as long as the 1950s, "The County should continue a
356 restrictive approach toward the use of land over which it has zoning authority and
357 new development should be of controlled nature and channeled into the most
358 appropriate areas and discouraged in others." This proposed ordinance flies in the
359 face of that policy. Mr. Hughes stated he would like to echo the rest of the
360 Commission that they want Harbourtowne to be able to redevelop their property.
361 He thinks that there are possibilities to amend the table of uses chart in the Zoning
362 Ordinances to allow hotels in the residential zone. Perhaps other permitted uses in
363 the Rural Residential or Rural Conservation zones could be considered by special
364 exception and that special exception process could give the Board of Appeals, the
365 Planning Commission and everyone in the County a known process with adequate
366 safeguards by which this redevelopment on Martingham could be accomplished.
367 The other avenue that has occurred to him is why couldn't this property be
368 annexed by the Town of St. Michaels. We already have a pipe stem annexation
369 across the street from it. Our annexation laws favor annexation of greenfields
370 properties rather than ones that are already developed. Commissioner Hughes
371 feels the Commission needs to deliberate on this and write a detailed response to
372 the County Council on this recommendation underscoring the fact that they want
373 Harbourtowne to have to have some way to redevelop their property but this
374 legislation goes far beyond what is needed.

Commissioner Spies says we are talking a lot about Harbourtowne and a Holiday Inn today, those are just two examples, but we are a County that has aging properties that are not being efficiently used. But he is not in agreement with this legislation, it makes him extremely nervous about how far it goes. He does not think we need to view this as just a Harbourtowne issue, we need to take the opportunity while it is on the table to say there are other properties that are in the County that will fall in line with this legislation. He stated he does not feel this legislation is where it needs to be at this point. He stated he would encourage we not just talk about Harbourtowne but look at this as a tool for our County to develop correctly. It is one that is appropriate, just not appropriate the way it is currently written.

Commissioner Sullivan stated he has been out for a few months and not able to participate in the Harbourtowne discussion. This seems to be a case of a rush to judgment in which we have lost sight of the judgment. It appears there was a lot of support for the Harbourtowne project. Instead of sitting down and looking at our books and saying what can we do to promote within the general guidelines of our Comprehensive Plan, wise use of proper resources and then put together a piece of regulation that allows that to happen.

Commissioner Boicourt agrees with what has been said and is somewhat encouraged by the flow chart, but he is still concerned because it is not codified in the proposed legislation. Another part he is concerned about is how much say the Commission has with regard to the site plan. Commissioner Boicourt agrees we should take time and write down our points carefully to have a guideline to go to the County Council. This should be developed over the next week and pass it around and get a motion on it. He stated that the standards in the proposed legislation are incredibly circular and do not protect the County citizens. We need to tell the County Council not only our objections but to bring in some of the other ideas, annexation, these kinds of things, that will do the job without having to go to the PUD process.

Commissioner Hughes stated for the past fifteen years he has been directly involved in the County government and has worked very hard to add clarity to our land use regulations. The Zoning Ordinance and the Comprehensive Plan are in plain English. When we examine a site plan or a subdivision we have clear language, we have clear methodology. What this will put us back into is a room of lawyers arguing what the meaning of "is" is. Having gone through that for decades seeing those kinds of public hearings we don't need it again. If you don't have an idea what a PUD or a PRD is, Waterside Village where the Target is, is a PUD. What is there now bears no resemblance to what was originally proposed. There was supposed to be townhouses, a hotel, one elevation along the by-pass, one elevation along St. Michaels Road with stores on the first floor, apartments on the second floor. As developments go it was fine. What it has turned into is a pad shopping center. The back part of that PUD was supposed to be industrial, a continuation of businesses you find on Brooks Drive and Commerce Drive, like

Warrens Wood Works. That has all been changed to commercial now, we are having a BJ's, Harris Teeter and there is a Dick's Sporting Goods now. People have asked him why they put a Quality Health Strategies in a shopping center. The back half of that shopping center was supposed to be industrial and now you have this oddball arrangement of all these national franchise retailers with a good medical business in the middle of it. The other suggestion is if we want to have a greatly tightened up ordinance that would permit redevelopment and they want to have these areas, let's identify them, let's map them. We are in the Comprehensive Plan process now, if a particular area is already developed let's identify it and put it in the Comprehensive Plan.

Mr. Pullen stated the public hearing for the County Council is July 14th. Commissioner Fischer and Mr. Boicourt volunteered to draft a response. The document will be made public on the website once finalized. It would definitely be available at the meeting on the 14th. Commissioner Hughes reiterated to Mr. Armistead and his client that this is not an attempt to deny him the ability to redevelop his property, the question is finding the properly sized tool with which to do that.

Commissioner Boicourt moved to convey to the County Council, after stating the Commission's written points, their full support of the concept of redeveloping Harbortowne and the golf course in St. Michaels. On the other hand the suggestion that the proposed legislation be rejected and that alternative mechanisms be sought to allow this kind of redevelopment that would allow the checks and balances built into our current Comprehensive Plan that are not in this current legislation. Commissioner Fischer seconded the motion. The motion carried unanimously.

4. New Business

- a. Administrative Variance—Joseph and Louise Micallef, #A217—23468 Train Lane, Bozman, MD 21612, (map 31, grid 22, parcel 268, zoned Rural Residential), Lars Erickson, East Bay Construction, Agent.

Mr. Rothwell presented the staff report of the applicant's request for:

- (1) The modification of a second story roof line and ceiling height from 4 feet to 7 feet in order to add a functional dormer consisting of an additional 74 square feet of Gross Floor Area (GFA). This second story addition is located within the 100 foot buffer associated with Grace Creek. The dormer is located approximately 78'8" from the Mean High Water shoreline. The modification will be no closer to the shoreline than the existing building footprint.
- (2) This expansion of 74 square feet is approximately 5.2% of 1,410 square feet of the house's Gross Floor Area. Existing lot coverage is estimated at 9.86%.

- 468 (3) Property owner is also proposing to elevate the house to meet the 2 feet
469 freeboard requirement (lowest floor to be elevated 2 feet above the
470 floodplain elevation). This action is not subject to an administrative
471 variance as it does not create any new GFA.
472

473 Staff recommendations include:
474

- 475 1. The applicant shall make an application to the Office of Permits and
476 Inspections, and follow all rules, procedures, and construction timelines as
477 outlined regarding new construction.
478 2. The applicant shall commence construction on the proposed improvements
479 within eighteen (18) months from the date of the Planning Office's "Notice to
480 Proceed".
481 3. The applicant does not have to mitigate for this minor adjustment to GFA as
482 no additional lot coverage is associated with the dormer expansion.
483

484 Lars Erickson, East Bay Construction, on behalf of applicants. There is a bedroom
485 upstairs that has a four foot wall and they are changing the ceiling height. There is
486 no new lot coverage created and no new footprint created. Commissioner Hughes
487 asked if damage during Isabel was the reason for raising the structure. Mr.
488 Erickson stated that renovations outside the buffer which is more than fifty
489 percent of the structures value require the applicant to raise the structure.
490

491 Commissioner Hughes asked for public comments, there were none.
492

493 Commissioner Boicourt moved to recommend to the Planning Officer to grant the
494 administrative variance for Joseph and Louisa Micallef, 23468 Train Lane,
495 Bozman, all staff conditions being complied with, Commissioner Sullivan
496 seconded the motion. The motion carried unanimously.
497

- 498 b. Administrative Variance—Charles H. Webb #A218—22601 River Ridge Road,
499 Bozman, MD 21612 (map 31, grid 14, parcel 370, zoned Rural Conservation),
500 Bill Stagg, Lane Engineering, LLC, Agent.
501

502 Mr. Rothwell presented the Staff Report for the administrative variance to expand
503 a legal nonconforming dwelling. There are seven improvements.

- 504 (1) 129 square foot "Great Room" expansion on first floor of west face of the
505 dwelling, to a point not closer than 36 feet to MHW.
506 (2) 200 square foot "Entrance and Connector Hall" expansion on the first
507 floor of the east face of the dwelling.
508 (3) Enclose 118 square feet of an existing second floor balcony on the east
509 face of the dwelling.
510 (4) 172 square foot "Connector Hallway" expansion on the second floor of the
511 east face of the dwelling.
512 (5) 260 square foot vertical expansion on the second floor, directly above the
513 existing garage.

- 514 (6) Two first floor landings with steps on the west face of the dwelling.
515 (7) A covered porch with steps on the east face of the dwelling.
516

517 Staff recommendations include:
518

- 519 1. The applicant shall make an application to the Office of Permits and
520 Inspections, and follow all rules, procedures, and construction timelines as
521 outlined regarding new construction.
522 2. The applicant shall commence construction on the proposed improvements
523 within eighteen (18) months from the date of the Planning Office's "Notice to
524 Proceed".
525 3. Natural vegetation of an area three times the extent of the approved
526 disturbance in the buffer or on the property of planting in the Buffer cannot be
527 reasonably accomplished. Disturbance outside the buffer shall be 1:1 ratio. A
528 Buffer Management Plan application may be obtained through the Department
529 of Planning and Zoning.
530

531 Commissioner Hughes asked if the Staff was in agreement with Critical Area
532 regarding mitigation. Mr. Rothwell stated that they were.
533

534 Bill Stagg, Lane Engineering, Charles Webb, applicant, and Tim Kerns, project
535 designer and architect appeared before the Commission. Mr. Stagg stated the site
536 is fairly unique, kind of a peninsula with extensive buffer due to a stream issue,
537 almost entirely in buffer. The improvements are based on architectural
538 characteristics and structural issues within the house, an older house built
539 differently than we build today. He has tried to develop the most practical way to
540 expand this house to modernize it, to make it kind of a state of art house, within
541 those limitations and constraints. Mr. Webb stated the property has been in his
542 family for 42 years and he has enjoyed it since he was a child. It has taken a lot of
543 time and money to hang onto the property. He would like to get the house up to a
544 place he can enjoy with his family. Mr. Kerns stated they would like to develop it
545 in a way most sensitive to the history of the house.
546

547 Commissioner Boicourt reminded the Planning Commission that they have been
548 pretty much uniform in bump outs toward the water in critical areas. He presumed
549 the two deck areas are being constructed permeable. He wants to point out that
550 this is a large property with a huge amount of water frontage. Therefore we are
551 not being inconsistent. Commissioner Hughes agreed this is not as egregious as
552 some variances on smaller lots.
553

554 Commissioner Hughes asked for public comments, there were none.
555

556 Commissioner Spies moved to recommend to the Planning Officer approval of the
557 administrative variance for Charles H. Webb, 22601 River Ridge Road, Bozman,
558 with all staff recommendations being complied with, Commissioner Boicourt
559 seconded the motion. The motion carried unanimously.

- 560
561 c. Edwin F. Hale, Sr.—26035 Marengo Road, Easton, MD 21601 (map 24, grid 8,
562 parcel 6, zoned Rural Conservation/Western Rural Conservation), Sean Callahan,
563 Lane Engineering, LLC, Agent.
564

565 Mr. Rothwell presented the Staff Report for the major revision plat. Applicant
566 proposes to create one additional lot. To do this applicant would have to go
567 through a portion of the existing reservation of development rights area. Our Code
568 explicitly states that for reservation of development rights to be altered, moved or
569 relocated it has to go to Planning Commission. Also, secondly, the critical area
570 portion of the proposed Lot 3 is roughly 5.3 acres. Originally a very narrow pipe
571 step connected Hunting Creek Road. There is a 100± foot wide row of trees
572 planted some time ago along the side lot line. We asked that the proposed pipe
573 stem lot include that tree line so there are not too many convoluted lines running
574 across the property. It was discussed with the applicant what was the long term
575 vision of the property. The applicant has made it clear he does not want to
576 exercise all of his development rights. The applicant at the most is requesting
577 several years down the road to create another 40-50 acre lot. Planning Staff is
578 comfortable this meets the intent of the Comprehensive Plan both for the lot size
579 waiver in terms that make the most sense for the subdivision of this property.
580

581 Mr. Rothwell stated, you can see on Sheet 3 the single line hatched area is the
582 existing reservation of development rights area, to the far side which abuts the
583 property is the symbol for where the pipe stem would infringe upon the existing
584 reservation of development rights area. The applicant initially proposed to
585 relocate and essentially square it off. The Planning Office has requested the
586 reserve land area be moved to the 200 foot Shoreline Development Buffer. The
587 only request the Planning Office has is that the relocated reservation of
588 development rights which is the one which is sparking this major revision plat, be
589 moved to that same vicinity, rather than be in the middle of a corn field.
590

591 Staff recommendations include:
592

- 593 1. Address the June 10, 2015 Technical Advisory Committee comments from the
594 Department of Planning and Zoning, Department of Public Works,
595 Environmental Health Department, Talbot Soil Conservation District, and the
596 Environmental Planner prior to preliminary plat submittal.
597

598 Sean Callahan, Lane Engineering, appeared on behalf of client. There is an
599 existing gravel driveway that will follow the hedgerow. Mr. Hale intends to build
600 a house for his daughters for when they come to visit.
601

602 Commissioner Hughes asked for public comment, there was none.
603

604 Commissioner Boicourt moved to approve the sketch major revision plat for
605 Edwin F. Hale, Sr., 26035 Marengo Road, Easton, Maryland, with the expectation

606 that the reservation of development rights will be moved to the buffer, and all
607 staff conditions being complied with. Commissioner Spies seconded the motion.
608 The motion carried unanimously.

609
610 Commissioner Boicourt moved to table consideration of the lot size waiver for
611 Edwin F. Hale, Sr., as the lot may be reconfigured again before final.
612 Commissioner Spies seconded the motion. The motion carried unanimously.

613
614 Commissioner Hughes suggested hearing the discussion item for Old McDonald
615 LLC as the next item of business (see 5.a.).

616
617 Commission took short recess at 10:58 to rearrange for next session. Resumed at
618 11:17 a.m.

619
620 d. Amendments to 2015 Comprehensive Plan

621
622 Mr. Sokolich gave a short introduction and presented some slides.
623 Recommendations were made to the County Council in February Worksessions
624 with County Council where an overview of what was in the plan was reviewed.
625 Questions and comments from County Council ranged from minor to major items.
626 The compilation of comments from the County Council became known as the
627 matrix. In 2011 citizens committee was appointed to review and made some
628 recommendations to the staff, and in 2012 the Planning Commission reviewed.
629 We were told this is to be a review of the Plan not a rewrite. This plan is almost a
630 mirror image of the 2005 plan because it is a document that works and one the
631 public supports.

632
633 Commissioner Boicourt stated that what is different about this plan is that the
634 planning staff went out to the unincorporated villages and an outreach was done.
635 That has a lot of bearing to some of the issues here.

636
637 Mr. Sokolich stated that with the matrix table, the Council is preparing to get into
638 more detailed discussions about what amendments they would like to see made.
639 There is a public meeting the first week in August. Mr. Pullen stated that these
640 will still be worksessions and there are no formal votes in worksessions.

641
642 Commissioner Boicourt asked if the County Council will come back to Planning
643 Commission. Ms. Verdery stated what the County Council is asking for now is
644 the Planning Commission to review the matrix and give a recommendation of
645 support, recommendation that you do not support it, or maybe a comment with
646 additional information.

647
648 Commissioner Fischer stated he does not see how the County Council would not
649 come back to the Planning Commission for our recommendations once the final
650 Council changes have been agreed upon. Mr. Pullen stated he would think that the

651 final review of proposed amendments would come back to the Planning
652 Commission for its review and comment.

653
654 Mr. Sokolich stated that the matrix consisted of an outline of potential changes
655 that were discussed. If it was underlined at least one council member had made a
656 specific suggestion to change some text in some policy or place. There are some
657 things in the Notes column where they would like to see things discussed more
658 thoroughly in some way.

659
660 Mr. Sokolich stated one topic is future growth areas around the towns and how
661 growth in and around the villages will be handled. People on the Council are
662 concerned about some of the villages withering and dying if they can't grow and
663 redevelop in some other ways. Sewer service is a big deal with Ray Clarke right
664 now. He is receiving funding for upgrades to the Tilghman plant. That is going to
665 mean sewer extensions to villages that had not been contemplated recently for
666 sewer. We had been talking about Claibourne, McDaniel, Wittman. Now we are
667 looking at Fairbank, Bar Neck, Sherwood and possibly Wittman coming up from
668 the other direction. And other areas that are not incorporated villages that had not
669 been discussed are becoming an interest of both County Council and Public
670 Works and relates to our tier maps. Areas that were tier 3B that were on small
671 lots, even if there were not in a village, systems are likely to be contributing to
672 water quality problems. How do we decide which of those properties do and do
673 not get connected. Commissioner Fischer stated concerns that Public Works may
674 be getting ahead of the zoning process. He felt Mr. Clarke is anxious to pick up
675 villages for water quality purposes and for viability of villages purposes. But we
676 don't have zoning in place. Mr. Clarke is moving fast and aggressively on money,
677 but planning documents are not in place. Ms. Verdery stated that is recognized.
678 Mr. Clarke will be at the September meeting to discuss those items.

679
680 Mr. Pullen stated that in order to get funding for the extension of sewer lines they
681 needed to be mapped sewer service areas that would be served by the new lines
682 and the comprehensive water and sewer plan need to map those areas S1, S2 and
683 S3. And before that has to happen this plan has to be adopted so that the provision
684 for the extension of these services really extends from the Comprehensive Plan.
685 He stated you can't get funding until you get the amended maps.

686
687 Mr. Sokolich stated that with the matrix the major things are: what are the policies
688 behind the words, are we suggesting modifying those policies, or what else.
689 Commissioner Fischer asked what policies might emerge.

690
691 Vision Statement:

692
693 Commissioner Boicourt stated initially he reacted negatively, but after
694 consideration likes the statement. He does not like the last statement.
695 Commissioner Hughes suggested replace "promote" with "preserve".
696 Commissioner Spies felt we have bigger battles to fight. Commissioner Hughes

697 stated if it is going to state “promote” the quality of life we need to stick with the
698 definition of the quality of life currently in the plan. Mr. Sokolich stated there
699 have been some suggested additions.
700

701 Commissioner Sullivan stated he is very much against putting in broad definitions
702 such as they did for affordable workforce housing. Mr. Sokolich explained that on
703 the very last page there is a more detailed definition.
704

705 The Planning Commission agrees with the vision statement change, except take
706 out the last phrase.
707

708 Three definitions (ii):
709

710 Mr. Sokolich stated there were some concerns that the areas where growth and
711 development take place were too constrained by the definitions that were in the
712 Plan. The feeling was that the County was cut out of opportunities to do other
713 things in other places. Can you not call Tilghman a population center yet call
714 Trappe a population center. Commissioner Hughes stated if you are going to have
715 new terms and new growth areas, then identify them.
716

717 Take last part of population center where it talks about rural villages and put it
718 under the villages.
719

720 Commissioner Boicourt stated that confusion and lack of clarity, is the issue here.
721 You ought to be able to suggest to the Council that the definitions are vague.
722 Commissioner Boicourt recommended the identification of Growth Areas and
723 map them.
724

725 Commissioner Sullivan stated that transportation and infrastructure is important,
726 such as in Royal Oak, transportation there is extremely limited. Commissioner
727 Fischer stated that the terms public services and public facilities are important.
728 There is a public service, sewer. Sewer was not intended for growth, it was
729 intended for water quality purposes. There is no water, there are no jobs, there is
730 no social service, there are no food markets, there is no police, there is no fire,
731 there is no transportation, there is no infrastructure. Mr. Sokolich stated instead of
732 picking this apart line by line, word by word, do you agree or disagree, and why
733 do you agree or disagree, what is the reason for the rationale behind these
734 comments, or why do you object to the rationale.
735

736 Mr. Pullen stated there has been a lot of public interest in the extension of sewer.
737 Commissioner Hughes asked what is the purpose of the sewer pipe? The purpose
738 of the sewer pipe for Tier 3B was water quality, i.e., you want to pick up failing
739 septic systems, and if you have small existing lots of record, it is all right to pick
740 those up because they will not perk. But if you build a dozen more houses across
741 the road, there goes your nitrogen improvement which we are supposed to be
742 reducing according to the TMDLs. Mr. Pullen stated the question becomes when

743 you extend sewer what impact is that going to have on growth. The way to
744 implement is through the sewer service area. The current loan for the Tilghman
745 Plant states that the plant will not deny service to someone within the sewer
746 service area without getting express consent from Rural Development. The
747 extension of sewer and the public funding for it is intended to flow to all of the
748 lots in that mapped area. So the mapping becomes critical. Commissioner Hughes
749 stated that the purpose of the sewer lines as defined in Tier 3B is all up for grabs.
750 Say on a sixteen acre parcel you do one dwelling unit per two acres, you put eight
751 houses. You have to allocate capacity to subdivisions that may or may not get
752 built. He stated he felt you would not be able to get money from the state if you
753 were assigning capacity to a number of new subdivisions that may or may not get
754 built, yet Claibourne is still failing, but we've used all of our capacity on new
755 subdivisions. Commissioner Hughes hopes the Council understands that. Mr.
756 Pullen stated his sense is that the Council does understand. There will be growth
757 in the villages even if it is limited to redevelopment of a limited house.
758

759 Items 1-4 tabled for now.

760
761 Strike definition 5.

762
763 Purpose of the Plan – Planning Commission concurs.

764
765 VII. Implementation – Planning Commission concurs.

766
767 Resource links – Planning Commission concurs.

768
769 Items 1-1 thru 1-9 – It was discussed that more information and statistics should
770 be included in this area.

771
772 Frank Cavanaugh stated he was very impressed about Commissioner Hughes
773 comment that we do not need any housing because if we look at the census and
774 the present conditions that would say there is not a need for more housing. Can
775 that be made clear someplace else in the plan, where there is just a graph that
776 illustrates that very clearly.

777
778 Planning Commission concurs with placing a new box in the housing chapter
779 showing the number of homes for sale, how many lots, how much unimproved
780 land is for sale, and how much commercial and industrial land is for sale.
781 Commissioner Hughes stated the Commission also wanted to put in the growth
782 area acreage and the number of approved houses in the County but not yet built.
783 The growth area was approximately 4,200 acres and the approved houses was
784 somewhere around 3,000.

785
786 Along with the statistical information it was stated that it needs to be explained
787 what the figures mean, what the details of this inventory are. There is affordable
788 housing in Easton and no one can qualify for it. Corey Pack sees a need for

789 affordable/workforce housing which needs to be worked out. Clear definitions of
790 Affordable Housing and Workforce Housing need to be developed.
791

792 Commissioner Sullivan stated the reason everyone nationwide is emphasizing
793 workforce housing is because when people hear it they think firemen, policemen,
794 good guys. When you say low income affordable housing, you say not in my
795 neighborhood. The reason you have moderate income housing, technical low-mod
796 it used to be moderate, low income and very low income. There is absolutely no
797 supply, because you need financing for all of this, subsidies, and not only for land
798 and building but subsidized for people living there. If you have \$100,000.00 and it
799 has to be split amongst 100 people, everybody gets \$1,000.00. So instead of
800 taking \$100,000.00 and getting low income housing for two families and telling
801 the other ninety-eight they have to wait, they just keep throwing \$1,000.00 at
802 people which get them nowhere. That's why it has struggled for thirty years.
803 Commissioner Hughes stated we need to define Affordable Housing and
804 Workforce Housing in zoning and land use, determining exactly what is meant in
805 those terms. Ms. Verdery stated the Affordable Workforce Housing Committee
806 has done that and supplied it to the Council but they have not had an opportunity
807 to review it. Commissioner Sullivan stated in order to get definition you have to
808 get statistics of who is buying those houses.
809

810 Page 1-9, IV. Summary – Planning Commission concurred.
811

812 The Commission discussed that the maps were being dealt with at a later time.
813

814 Page 2-1, Vision and Goal - Commissioner Hughes stated “ability to provide” is
815 too opened ended, could mean the entire County. It also conflicts with other
816 language about doing all this ahead of time. The Planning Commission concurs.
817

818 Page 2-1, “population centers” – The Planning Commission concurs.
819

820 Page 2-1, “smart growth” – The Planning Commission does not agree with this
821 change.
822

823 Page 2-1, Introduction – The Planning Commission concurs.
824

825 Page 2-3, Land Use Policies box - Commissioner Hughes stated this is a policy
826 statement that has been in existence for decades and it is a contravention of that.
827 Ms. Verdery stated they were trying to reword in a positive way. Commissioner
828 Boicourt stated even though it might sound negative we should back it up.
829 Commissioner Hughes stated the Council does not understand the historical
830 context. He would like to respect the decades of that policy being in our ordinance
831 and in our land use. Ms. Verdery stated she appreciates that but when feasible we
832 should look beyond the fact that it has always been there. The Commission should
833 explain it has always been there because...., you have to expand on that statement
834 a little bit.

835
836 The Commission suggests, “The County supports new development of a
837 controlled nature channeled into the most appropriate areas.”
838

839 Page 2-3, Land Use Policies box - Mr. Pullen stated the questions that are going
840 to have to be addressed are if there will be split zoning, where will that line be.
841 The answers to those questions will determine how much if any new residential
842 development will be permitted on that site. Those are the kinds of things that have
843 to be addressed. Ms. Verdery stated that the designated growth areas listed in this
844 policy was confusing throughout the chapter. Commissioner Hughes suggested to
845 define designated growth areas more clearly.
846

847 Page 2-3, Land Use Policies box – This was put in so that it required the benefits
848 to occur at the site. Mr. Pullen gave the example of the Easton Airport where trees
849 had grown up. He said providing the mitigation at the other location is the same as
850 it would have been on site, the environmental benefit is the same. Commissioner
851 Hughes stated not for the people on who live there.
852

853 The Planning Commission suggested: “Sensitive environmental areas shall be
854 protected and/or mitigated on site to the greatest extent possible.”
855

856 Page 2-3, Reorganized – Commissioner Boicourt stated this is in direct conflict
857 with our Countryside Preservation area.
858

859 The Planning Commission chose to use item 3 and added “designated growth
860 areas”.
861

862 Page 2-4, Existing Developed Area – It was discussed if there are adequate
863 accommodations for future development and infrastructure investments in
864 villages. The Planning Commission suggests adding a new paragraph regarding
865 the village growth areas and why these areas must be mapped growth areas.
866

867 Page 2-5, Designated Growth Areas – The Planning Commission agreed to accept
868 the wording and explain that we do not control the Town.
869

870 Maps - The Planning Commission concurred.
871

872 Page 2-10, Community Conservation – Mr. Pullen suggested the Commission
873 decide what the policies are for the next ten years. There are exclusionary zoning
874 restrictions. Keep in mind the vision and the policies for subdivision and zoning
875 for these areas. Commissioner Fischer stated that no one is going to ask us to
876 draw lines on maps. Mr. Pullen stated that rezoning will come next. The tier maps
877 will come next. Mr. Sokolich stated that the process for the tier maps was
878 defensible as it was. If it was 3 acres or under, the line was drawn. It wasn’t
879 drawing a line per se, it was establishing how the line was drawn.
880

Commissioner Hughes stated there is adequate inventory and there is no demand. Turning some village into a growth area, allowing big subdivisions, allocating limited wastewater capacity to them and they may never get built on, plus denying that capacity to some place that could use it, is a ridiculous exercise. Commissioner Boicourt agreed, but the question is how do we provide a vision of what could go there.

The Planning Commission suggested getting a picture, possibly an aerial photograph to illustrate the vision, and to draft alternative paragraphs for the definition of rural village.

Page 2-12, Policy 2.8 - The Planning Commission suggested: “Future residential subdivision development around Easton Airport shall comply with applicable Federal Aviation Administration regulations.”

Page 2-12, Policy 2.9 - Commissioner Boicourt asked what was the concept behind this change? Mr. Sokolich stated the policy as originally written was so that the Town of Easton and Trappe would leave the door open to break their hold on sewer and allow it beyond its City limits without annexation. The County could supervise this development. Commissioner Hughes felt Easton Utilities would not allow decision making control to go to the County. Commissioner Hughes asked what would the zoning be if the County controlled it in the TC zone? Commissioner Boicourt stated we should point that out and say it is not feasible as we do not know what the zoning would be.

Page 2-12, Policy 2.13 – The Planning Commission suggested: “that support agriculture, forestry and commercial maritime uses.”

Page 2-12, Policy 2.15 – Commissioner Boicourt and Jeremy to work on this.

Page 2-12, Policy 2.16 – Mr. Sokolich stated that the suggestion to the Council is that if someone is taking a large parcel, allowing someone to subdivide it, a master plan should be done. It does not stop at the edge of that site, it shows how it relates to the rest of the village, connecting streets, similar building heights, similar setbacks, similar character. Commissioner Hughes asked, in other words, if someone wants to have a village growth area that would trigger the need for a master plan. Mr. Rothwell said that gives transparency for a developer coming in. Commissioner Hughes asked if the staff would draft the master plan? Ms. Verdery stated it is probably going to be multi-layer, County will choose growth areas, hire a professional, decide what they want to establish. If other areas want to come in then maybe they want to do their own master plan. Commissioner Hughes stated we don’t like this sort of amorphous cloud that some villages are going to be growth areas without any identification. If there is to be a master plan in place can we specify an uninterested third party. Mr. Rothwell stated you can define separate definitions for master plan and what should be in the master plan. If you don’t want to come up with the money to appropriate plan out where the

new infrastructure, where the new development, where the new streets are going to be, that begs the question as to whether or not you want to be a growth area. Commissioner Hughes stated he is leery of just anybody preparing the master plan.

Commissioner Spies asked if there is a process now for a master plan, the master plan is written, does the Planning Commission make approval. Mr. Pullen stated his view was that the County had the authority to be directly involved in the planning process with the professional who will be doing the heavy lifting. Mr. Rothwell stated the role of the consultant is to be the facilitator. Really it is not just the County who has to be involved, it is the appropriate State agency, such as the State Highway, in the development review process. So if street trees are required or street lights, you need SHA to say yes and we will do this much funding. That is transparency for the residents and for the developers.

Mr. Sokolich said they could be talking \$100,000 for consultant fees to develop these plans. If you are proposing to recommend to the County Council if you want to have these village growth areas they have to be prepared to have in the budget \$100,000 of funding for the master plans? The consensus was that funding would be needed to provide the professionals for preparation of the master plans. Mr. Rothwell stated that there are grant programs available for green street, bay restoration funds.

Frank Cavanaugh commented he was formerly Chairman of Village Center for 8 years. He feels if they want to designate some villages as growth centers they absolutely should. Mr. Sokolich attempted to try to get the villages to make a plan, but the residents said they wanted to stay the same. It was a good process, it started out with a lot of enthusiasm. But it became ineffective due to the length of time with no action.

Page 2-17 – The Planning Commission proposes: “in the most appropriate areas.”

The Planning Commission wants a textbook definition of affordable and workforce housing.

Commissioner Boicourt stated that over the years it has been requested that Economic Development should have inventory statistics at hand, such as how much rental inventory is currently available, what is the median value. Ms. Verdery stated that is what the Affordable Workforce Housing Committee is designated to provide. Commissioner Boicourt stated Economic Development had also been asked for as list of existing commercial space, occupied and unoccupied.

Page 2-15, Growth allocation – The Planning Commission concurred.

Page 2-17, Gateway Plan – The Planning Commission concurred.

973
974 Page 2-17, IV. Remaining recommendation – Mr. Pullen said for example take
975 Bill 1298, assume you have a large number of nontidal wetlands in the County
976 zoned residential. If I have a parcel entirely encumbered by nontidal wetlands I
977 still have a development right. If you deny me that development right you are
978 taking my property that is constitutionally protected, that is a problem. With the
979 TDR program you can actually rezone those areas to make them undevelopable so
980 you preserve them. You can't just say you can't build a house. The owner still has
981 that development right which is constitutionally protected. You can transfer that
982 development right from the sensitive area into an area that is designated as a
983 receiving area. Commissioner Hughes asked where. Mr. Pullen said we need to
984 designate those areas. But there are creative ways to protect sensitive
985 environmental areas without running afoul of these constitutionally protected
986 property rights, TDRs is one.

987
988 Commissioner Hughes feels inter-jurisdictional is not realistic. Commissioner
989 Boicourt felt this is a good thing to turn back to the County Council and let them
990 think about it.

991
992 Planning Commission suggests: "in appropriate designated village growth areas."

993
994 Page 2-17, Remaining recommendation – Planning Commission concurred.

995
996 Page 2-19 – Planning Commission says No.

997
998 Page 2-20 – Commissioner Hughes stated that again we need hard definitions for
999 affordable and workforce housing. Ms. Verdery stated we also need to have clear
1000 mapping, and defined densities.

1001
1002 Page 2-22 – Commissioner Hughes stated he is concerned about the definitions.
1003 Commissioner Hughes asked what does water quality strategy actually mean? The
1004 original intent was to stop fecal matter from getting into the water. Part one is to
1005 pick up existing houses with failing systems to prevent fecal contamination of
1006 shell fish waters. The second thing to do with water quality strategy was to pick
1007 up houses to lower nitrogen load. Building new subdivisions using ENR in these
1008 pipes isn't water quality strategy. If you pick up an existing house you get
1009 nitrogen improvement of about 18 pounds. You put in a twelve lot subdivision
1010 across the street you are back to zero.

1011
1012 On the current resolution the Council is considering for the Tilghman plant, under
1013 that resolution by law the County is prohibited from denying service from an
1014 applicant who is in the sewer service area. The control becomes the map of the
1015 sewer service area. Commissioner Hughes stated the point that has been made to
1016 him by the people in Annapolis is we should be using our existing capacity for
1017 existing houses and existing lots. That would make them happy, that would meet
1018 the TMDL requirements. The land use map, priority funding area map, sewer

1019 service area map and tier map should all agree. The issue is how do we convey
1020 that to the Council. Mr. Sokolich stated on page 2-23 the tier 3B definition is non-
1021 growth areas, it must be amended to include these areas. Looking at opportunities
1022 for new growth on areas already designated or already being served.

1023
1024 The Planning Commission said they concur with Tier IIIA, and amended to
1025 include “eligible areas of limited sewer availability”.

1026
1027 The Planning Commission states that concerning Tier 3B the emphasis needs to
1028 be on water quality strategy that ends up with a net reduction of nutrients per the
1029 federal TMDL requirement. Water quality strategy is both an elimination of fecal
1030 contamination and a net reduction in nutrient loads.

1031
1032 Area of limited sewer availability is for one reason only, to fix an existing
1033 problem.

1034
1035 Page 2-37 – The Planning Commission is happy with the land use and tier map as
1036 they exist. This is consistent with the definition of designated growth. Place on
1037 map notation “under designated growth areas master plan required, not shown”.
1038 Mr. Rothwell stated it could be in another color.

1039
1040 Page 2-35 – The Planning Commission says No.

1041 1042 **5. Discussions Items**

1043 a. Old McDonald LLC

1044
1045 Mr. Rothwell discussed the Old McDonald LLC project which is correcting of a
1046 mistake Planning and Zoning had made. The applicant has just under a fifty acre
1047 farm and is proposing to create two lots. Originally the applicant came forward to
1048 split the farm down the middle. In discussions it was requested according to the
1049 Comprehensive Plan and the Zoning Ordinance as stipulated in Section 190-13
1050 and Section 190-14 that the applicant use natural barriers and the natural
1051 delineations of farm fields for new lots. As a compromise the applicant has used
1052 the existing hedgerow on the western portion of the property as the southern
1053 boundary of new Lot 2, creating a building envelope just on other side of the
1054 hedgerow. New driveway will be along the hedgerow as requested. Because this
1055 very convoluted lot line actually already cuts up an existing agricultural field and
1056 to minimize the encroachments on the agricultural field. In doing this it
1057 necessitates a waiver of the Talbot County Code because it is over five acres and
1058 under twenty. The Planning Staff and applicant agree this is a better site design
1059 according to Talbot County Code and the Comprehensive Plan. We wanted to
1060 come forward as a discussion item recognizing applicant will come forward next
1061 month for final approval.

1062
1063 Commissioner Sullivan asked if Tax Parcel 29 already has buildings. Mr.
1064 Rothwell stated that it did.

General consensus of the Commission supported the waiver request.

6. Staff Matters—None.

7. WorkSessions—None.

8. Commission Matters—None.

9. Adjournment

The meeting ended for the day at 4:28 p.m. to be continued on Thursday, July 2, 2015 at 9:30 a.m. at the Talbot County Library.

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